

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 278**

(By Senator Karnes)

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[Originating in the Committee on  
the Judiciary;  
reported February 25, 2015.]

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A BILL to amend and reenact §20-2-5, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West Virginia, 1931, as amended, all relating to lawful and unlawful methods of hunting and fishing; prohibiting hunting with night vision technology, drone or other unmanned aircraft; clarifying when a person may carry certain firearms; permitting a person to carry a gun for self defense while in the woods; permitting hunting with crossbows with certain limitations;

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clarifying bear laws and Class Y permits; and making certain technical corrections.

*Be it enacted by the Legislature of West Virginia:*

That §20-2-5, §20-2-5g, §20-2-22a and §20-2-42w of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.**

1           Except as authorized by the director or by law, it is  
2 unlawful at any time for any person to:

3           (1) Shoot at ~~or to shoot~~ any wild bird or wild animal unless  
4 it is plainly visible ~~to him or her~~;

5           (2) Dig out, cut out, ~~or~~ smoke out, or in any manner take or  
6 attempt to take any live wild animal or wild bird out of its den or  
7 place of refuge ~~except as may be authorized by rules promulgated~~  
8 ~~by the director or by law~~;

9           (3) ~~Make use of, or take advantage of,~~ Use or attempt to use

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1 any artificial light or any night vision technology, including image  
2 intensification, thermal imaging or active illumination while in  
3 hunting, locating, attracting, taking, trapping or killing any wild  
4 bird or wild animal: ~~or to attempt to do so, while having in his or~~  
5 ~~her possession or subject to his or her control, or for any person~~  
6 ~~accompanying him or her to have in his or her possession or subject~~  
7 ~~to his or her control, any firearm, whether cased or uncased, bow,~~  
8 ~~arrow, or both, or other implement or device suitable for taking,~~  
9 ~~killing or trapping a wild bird or animal:~~ *Provided*, That it is lawful  
10 to hunt or take coyote, fox, raccoon, opossum or skunk by the use  
11 of artificial light or night vision technology. ~~subject to the~~  
12 ~~restrictions set forth in this subdivision. No person is guilty of a~~  
13 ~~violation of this subdivision merely because he or she looks for,~~  
14 ~~looks at, attracts or makes motionless a wild bird or wild animal~~  
15 ~~with or by the use of an artificial light, unless at the time he or she~~  
16 ~~has in his or her possession a firearm, whether cased or uncased,~~  
17 ~~bow, arrow, or both, or other implement or device suitable for~~  
18 ~~taking, killing or trapping a wild bird or wild animal, or unless the~~

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1 ~~artificial light (other than the head lamps of an automobile or other~~  
2 ~~land conveyance) is attached to, a part of or used from within or~~  
3 ~~upon an automobile or other land conveyance.~~

4 Any person violating ~~the provisions of~~ this subdivision is  
5 guilty of a misdemeanor and, upon conviction thereof, shall for  
6 each offense be fined not less than \$100 nor more than \$500, and  
7 shall be confined in jail for not less than ten days nor more than one  
8 hundred days;

9 (4) Hunt ~~for~~, take, kill, wound or shoot at wild animals or  
10 wild birds from an airplane or other airborne conveyance, a drone  
11 or other unmanned aircraft, an automobile or other land  
12 conveyance, or from a motor-driven water conveyance ~~except as~~  
13 ~~authorized by rules promulgated by the director;~~

14 (5) Use a drone or other unmanned aircraft to hunt, take or  
15 kill a wild bird or wild animal, or to use a drone or other unmanned  
16 aircraft to drive or herd any wild bird or wild animal for the  
17 purposes of hunting, trapping or killing;

18 ~~(5)~~ (6) Take any beaver or muskrat by any means other than

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1 by a trap;

2 (6) (7) Catch, capture, take or kill by seine, net, bait, trap or  
3 snare or like device ~~of any kind any~~ a bear, wild turkey, ruffed  
4 grouse, pheasant or quail;

5 (7) (8) Destroy or attempt to destroy ~~needlessly or willfully~~  
6 the nest or eggs of any wild bird or have in his or her possession the  
7 nest or eggs unless accidental or authorized to do so ~~under rules~~  
8 ~~promulgated by or under a~~ permit issued by the director;

9 (8) ~~Except as provided in section six of this article, carry~~ (9)  
10 Carry an uncased or loaded gun in ~~any of~~ the woods of this state  
11 ~~except during the~~ with the following permissible exceptions:

12 (A) A person in possession of a valid license or permit  
13 during open firearms hunting season for wild animals and  
14 nonmigratory wild birds; ~~within any county of the state unless he or~~  
15 ~~she has in his or her possession a permit in writing issued to him or~~  
16 ~~her by the director. Provided, That this section does not prohibit~~

17 (B) A person hunting or taking ~~of~~ unprotected species of  
18 wild animals, ~~and~~ wild birds and migratory wild birds during the

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1 open season, in the open fields, open water and open marshes of the  
2 state;

3 (C) A person carrying a gun pursuant to sections six and  
4 six-a of this article; or

5 (D) A person carrying a deadly weapon for self defense  
6 who is not prohibited from possessing firearms by section seven,  
7 article seven, chapter sixty-one of this code;

8 ~~(9)~~ (10) Have in his or her possession a crossbow with a  
9 ~~nocked bolt, a loaded firearm or a firearm from the magazine of~~  
10 ~~which all shells and cartridges~~ or rifle or shotgun with cartridges  
11 that have not been removed or a magazine that has not been  
12 detached, in or on any vehicle or conveyance, or its attachments,  
13 ~~within the state, except as may otherwise be provided by law or~~  
14 ~~regulation.~~ For the purposes of this section, a rifle or shotgun  
15 whose magazine readily detaches is considered unloaded if the  
16 magazine is detached and no cartridges remain in the rifle or  
17 shotgun itself. ~~Except as hereinafter provided, that~~ between five  
18 o'clock post meridian of ~~one~~ day one and seven o'clock ante

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1 meridian, Eastern Standard Time, of the following day ~~following~~,  
2 any unloaded firearm or crossbow, ~~being lawfully carried in~~  
3 ~~accordance with the foregoing provisions~~, may be so carried only  
4 when in a case or taken apart and securely wrapped. During the  
5 period from July 1 to September 30, inclusive, of each year, the  
6 ~~foregoing~~ requirements relative to carrying ~~certain~~ unloaded  
7 firearms are permissible only from eight-thirty o'clock post  
8 meridian to five o'clock ante meridian, Eastern Standard Time:  
9 *Provided*, That the time periods for carrying unloaded and uncased  
10 firearms are extended for one hour after the post meridian times and  
11 one hour before the ante meridian times established ~~above~~ in this  
12 subdivision, if a ~~hunter is preparing to or in the process of~~ person  
13 is transporting or transferring the firearms to or from a hunting site,  
14 campsite, home or other ~~place of~~ abode;  
15       (10) (11) Hunt, catch, take, kill, trap, injure or pursue with  
16 firearms or other implement by which wildlife may be taken after  
17 the hour of five o'clock ante meridian on Sunday on private land  
18 without the written consent of the landowner any wild animals or

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1 wild birds except when a big game season opens on a Monday, the  
2 Sunday prior to that opening day will be closed for any taking of  
3 wild animals or birds after five o'clock ante meridian on that  
4 Sunday: *Provided*, That traps previously and legally set may be  
5 tended after the hour of five o'clock ante meridian on Sunday and  
6 the person ~~so doing~~ tending the traps may carry ~~only a twenty-two~~  
7 ~~caliber firearm~~ firearms for the purpose of humanely dispatching  
8 trapped animals. Any person violating ~~the provisions of~~ this  
9 subdivision is guilty of a misdemeanor and, upon conviction  
10 thereof, in addition to any fines that may be imposed by this or  
11 other sections of this code, is subject to ~~a~~ an additional \$100 fine;

12       ~~(11)~~ (12) Hunt, catch, take, kill, injure or pursue a wild  
13 animal or wild bird with the use of a ferret;

14       ~~(12)~~ (13) Buy raw furs, pelts or skins of fur-bearing animals  
15 unless licensed to do so;

16       ~~(13)~~ (14) Catch, take, kill or attempt to catch, take or kill  
17 any fish ~~at any time~~ by any means other than by rod, line and hooks  
18 with natural or artificial lures ~~unless otherwise authorized by law or~~



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1 ~~rules issued by the director:~~ *Provided*, That snaring of any species  
2 of suckers, carp, fallfish and creek chubs ~~shall at all times be~~ is  
3 lawful;

4       ~~(14)~~ (15) Employ, ~~or hire, or induce or persuade, by the use~~  
5 ~~of~~ with money, ~~or other~~ things of value or by any means, any  
6 person to hunt, take, catch or kill any wild animal or wild bird  
7 except those species ~~on~~ in which there is no closed season; or to  
8 fish for, catch, take or kill any fish, amphibian or aquatic life ~~which~~  
9 that is protected by the provisions of this chapter, or rules of the  
10 ~~director~~ by rule, or the sale of which is otherwise prohibited;

11       ~~(15)~~ (16) Hunt, catch, take, kill, capture, pursue, transport,  
12 possess or use any migratory game or nongame birds ~~included in~~  
13 ~~the terms of conventions between the United States and Great~~  
14 ~~Britain and between the United States and United Mexican States~~  
15 ~~for the protection of migratory birds and wild mammals concluded,~~  
16 ~~respectively, August 16, 1916, and February 7, 1936, except during~~  
17 ~~the time and in the manner and numbers prescribed~~ except as  
18 permitted by the ~~federal~~ Migratory Bird Treaty Act, 16 U. S. C.

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1 §703, *et seq.*, and its regulations ~~made thereunder~~;

2       ~~(16)~~ (17) Kill, take, catch, sell, transport or have in his or  
3 her possession, living or dead, any wild bird other than a game bird;  
4 ~~or expose for sale or transport within or without the state any bird~~  
5 ~~except as aforesaid. No part of~~ including the plumage, skin or body  
6 of any protected bird, ~~may be sold or had in possession for sale~~  
7 ~~except mounted or stuffed plumage, skin, bodies or heads of the~~  
8 ~~birds legally taken and stuffed or mounted~~; irrespective of whether  
9 the bird was captured ~~within or without~~ in or out of this state,  
10 except the English or European sparrow (*Passer domesticus*),  
11 starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which  
12 ~~may not be protected and the killing thereof at any time is lawful~~  
13 may be killed at any time;

14       ~~(17)~~ (18) Use dynamite, ~~or any like explosive~~ explosives or  
15 ~~poisonous mixture placed~~ any poison in any waters of the state for  
16 the purpose of killing or taking fish. Any person violating this  
17 subdivision is guilty of a felony and, upon conviction thereof, shall  
18 be fined not more than \$500 or imprisoned for not less than six

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1 months nor more than three years, or both fined and imprisoned;

2       ~~(18)~~ (19) Have a bow and gun, or have a gun and any arrow

3 ~~or arrows~~, in the fields or woods at the same time;

4       ~~(19)~~ (20) Have a crossbow in the woods or fields or use a

5 crossbow to hunt for, take or attempt to take any wildlife except as

6 otherwise provided in ~~section~~ sections five-g and forty-two-w of

7 this article;

8       ~~(20)~~ (21) Take or attempt to take turkey, bear, elk or deer

9 with any arrow unless the arrow is equipped with a point having at

10 least two sharp cutting edges measuring in excess of three fourths

11 of an inch wide;

12       ~~(21)~~ (22) Take or attempt to take any wildlife with an arrow

13 having an explosive head or shaft, a poisoned arrow or an arrow

14 which would affect wildlife by any chemical action;

15       ~~(22)~~ (23) Shoot an arrow across any public highway ~~or from~~

16 ~~aircraft, motor-driven watercraft, motor vehicle or other land~~

17 ~~conveyance~~;

18       ~~(23)~~ (24) Permit any dog owned ~~by him or her~~ or under his

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1 or her control to chase, pursue or follow ~~upon the track~~ the tracks  
2 of any wild animal or wild bird, ~~either~~ day or night, between May  
3 1 and ~~the~~ August 15 ~~next following~~: *Provided*, That dogs may be  
4 trained on wild animals and wild birds, except deer and wild  
5 turkeys, and field trials may be held or conducted on the grounds or  
6 lands of the owner or by his or her bona fide tenant ~~or tenants or~~  
7 upon the grounds or lands of another person with his or her written  
8 permission, or on public lands at any time: *Provided, however*,  
9 That nonresidents may not train dogs in this state at any time except  
10 during the legal small game hunting season: *Provided further*, That  
11 the person training ~~said~~ dogs does not have firearms or other  
12 implements in his or her possession during the closed season on  
13 wild animals and wild birds, whereby wild animals or wild birds  
14 could be taken or killed;

15       ~~(24)~~ (25) Conduct or participate in a trial, including a field  
16 trial, shoot-to-retrieve field trial, water race or wild hunt ~~hereafter~~  
17 ~~referred to as trial~~: *Provided*, That any person, group of persons,  
18 club or organization may hold ~~the~~ a trial ~~at any time of the year~~

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1 upon obtaining a permit ~~as is provided in~~ pursuant to section fifty-  
2 six of this article. The person responsible for obtaining the permit  
3 shall prepare and keep an accurate record of the names and  
4 addresses of all persons participating in ~~said~~ the trial and make  
5 ~~same~~ the records readily available for inspection by any natural  
6 resources police officer upon request;

7 ~~(25) Except as provided in section four of this article, hunt~~  
8 (26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any  
9 wild animal, wild bird or wild fowl except during ~~the open season~~  
10 seasons established by ~~rule of the director as authorized by the~~  
11 Natural Resources Commission pursuant to subdivision (6), section  
12 seven, article one of this chapter;

13 (27) Hunting on public lands on Sunday after five o'clock  
14 ante meridian is prohibited;

15 (28) Hunt, catch, take, kill, trap, injure or pursue with  
16 firearms or other implement which wildlife can be taken, on private  
17 lands on Sunday after the hour of five o'clock ante meridian:  
18 *Provided*, That the provisions of this subdivision do not apply in

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1 any county until the county commission of the county holds an  
2 election on the question of whether the provisions of this  
3 subdivision prohibiting hunting on Sunday shall apply within the  
4 county and the voters approve the allowance of hunting on Sunday  
5 in the county. The election is determined by a vote of the resident  
6 voters of the county in which the hunting on Sunday is proposed to  
7 be authorized. The county commission of the county in which  
8 Sunday hunting is proposed shall give notice to the public of the  
9 election by publication of the notice as a Class II-0 legal  
10 advertisement in compliance with the provisions of article three,  
11 chapter fifty-nine of this code and the publication area for the  
12 publication is the county in which the election is to be held. The  
13 date of the last publication of the notice shall fall on a date within  
14 the period of the fourteen consecutive days next preceding the  
15 election.

16       On the local option election ballot shall be printed the  
17 following:

18       Shall hunting on Sunday be authorized on private lands

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1 only with the consent of the land owner in \_\_\_\_\_ County?

2 [ ] Yes

3 [ ] No

4 (Place a cross mark in the square opposite your choice.)

5 Any local option election to approve or disapprove of the  
6 proposed authorization of Sunday hunting within a county shall be  
7 in accordance with procedures adopted by the commission. The  
8 local option election may be held in conjunction with a primary or  
9 general election or at a special election. Approval shall be by a  
10 majority of the voters casting votes on the question of approval or  
11 disapproval of Sunday hunting at the election.

12 If a majority votes against allowing Sunday hunting, ~~no~~an  
13 election on the issue may not be held for a period of one hundred  
14 four weeks. If a majority votes “yes”, ~~no~~ an election reconsidering  
15 the action may not be held for a period of five years. A local option  
16 election may thereafter be held if a written petition of qualified  
17 voters residing within the county equal to at least five percent of the  
18 number of persons who were registered to vote in the next

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1 preceding general election is received by the county commission of  
2 the county in which Sunday hunting is authorized. The petition  
3 may be in any number of counterparts. The election shall take place  
4 at the next primary or general election scheduled more than ninety  
5 days following receipt by the county commission of the petition  
6 required by this subsection: *Provided*, That the issue may not be  
7 placed on the ballot until all statutory notice requirements have  
8 been met. No local law or regulation providing any penalty,  
9 disability, restriction, regulation or prohibition of Sunday hunting  
10 may be enacted and the provisions of this article preempt all  
11 regulations, rules, ordinances and laws of any county or  
12 municipality in conflict with this subdivision. ~~and~~

13 The amendments to this subdivision during the 2015 regular  
14 session of the Legislature shall have no effect on the results of  
15 elections held prior to the enactment of the amendments to this  
16 subdivision; and

17 ~~(28)~~ (29) Hunt or conduct hunts for a fee ~~where the hunter~~  
18 when the person is not physically present in the same location as the



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1 wildlife being hunted within West Virginia.

2 **§20-2-5g. Use of a crossbow to hunt.**

3 (a) Notwithstanding any other provision of this code to the  
4 contrary, ~~a person who possesses a valid Class Y permit in~~  
5 ~~accordance with section forty-two-w of this article may, during the~~  
6 ~~designated archery hunting season; any person lawfully entitled to~~  
7 hunt may hunt with a crossbow during big game firearms season.  
8 A person who possesses a valid Class Y permit may also hunt with  
9 a crossbow in accordance with section forty-two-w of this article.  
10 Further, the director shall designate a separate season for crossbow  
11 hunting and identify which species of wildlife may be hunted with  
12 a crossbow.

13 (b) Only crossbows meeting all of the following  
14 specifications may be used for hunting in West Virginia:

15 (1) The crossbow has a minimum draw weight of one  
16 hundred twenty-five pounds;

17 (2) The crossbow has a working safety; and

18 (3) The crossbow is used with bolts and arrows not less than

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1 eighteen inches in length with a broad head having at least two  
2 sharp cutting edges, measuring at least three fourths of an inch in  
3 width.

4 **§20-2-22a. Hunting, tagging and reporting bear; procedures**  
5 **applicable to property destruction by bear;**  
6 **penalties.**

7 (a) A person ~~in any county of this state~~ may not hunt,  
8 capture, or kill any bear, or have in his or her possession any bear  
9 or bear parts, except during the hunting season for bear ~~and~~ in the  
10 manner designated by rules ~~promulgated by the Division of Natural~~  
11 ~~Resources~~, and as provided in this section. For the purposes of this  
12 section, bear parts include, but are not limited to, the pelt,  
13 gallbladder, skull and claws of bear.

14 (b) A person who kills a bear shall, within twenty-four  
15 hours after the killing, ~~deliver the bear or fresh skin to a natural~~  
16 ~~resources police officer or checking station for tagging~~  
17 electronically register the bear. A division of Natural Resources tag  
18 shall be affixed to it before any part of the bear may be transported

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1 more than seventy-five miles from the point of kill. The division of  
2 ~~Natural Resources~~ tag shall remain on the skin until it is tanned or  
3 mounted. Any bear or bear parts not properly tagged shall be  
4 forfeited to the state for disposal to a charitable institution, school  
5 or as otherwise designated by the ~~Division of Natural Resources~~  
6 director.

7 (c) It is unlawful:

8 (1) To hunt bear without a bear damage stamp, as  
9 prescribed in section forty-four-b of this article, in addition to a  
10 hunting license as prescribed in this article;

11 (2) To hunt a bear with:

12 (A) A shotgun using ammunition loaded with more than one  
13 solid ball; or

14 (B) A rifle of less than twenty-five caliber using rimfire  
15 ammunition; ~~or,~~

16 ~~(C) A crossbow;~~

17 (3) To kill or attempt to kill any bear through the use of  
18 poison, explosives, snares, steel traps or deadfalls ~~other than as~~

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1 ~~authorized in this section;~~

2 (4) To shoot at or kill:

3 (A) A bear weighing less than seventy-five pounds live  
4 weight or fifty pounds field dressed weight, after removal of all  
5 internal organs;

6 (B) Any bear accompanied by a cub; or,

7 (C) Any bear cub so accompanied, regardless of its weight;

8 (5) To possess any part of a bear not tagged in accordance  
9 with the provisions of this section;

10 (6) To enter a state game refuge with firearms for the  
11 purpose of pursuing or killing a bear except under the direct  
12 supervision of division personnel;

13 (7) To hunt bear with dogs or to cause dogs to chase bear  
14 during seasons other than those designated by the division of  
15 ~~Natural Resources~~ for the hunting of bear;

16 (8) To pursue a bear with a pack of dogs other than the pack  
17 used at the beginning of the hunt once the bear is spotted and the  
18 chase has begun;

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1           (9) To possess, harvest, sell or purchase bear parts obtained  
2 from bear killed in violation of this section;

3           (10) To organize for commercial purposes or to  
4 professionally outfit a bear hunt, or to give or receive any  
5 consideration whatsoever or any donation in money, goods or  
6 services in connection with a bear hunt, notwithstanding the  
7 provisions of sections twenty-three and twenty-four of this article;  
8 or

9           (11) For any person who is not a resident of this state to  
10 hunt bear with dogs or to use dogs in any fashion for the purpose of  
11 hunting bear in this state except in legally authorized hunts.

12           (d) The following provisions apply to bear destroying  
13 property:

14           (1) (A) Any property owner or lessee who has suffered  
15 damage to real or personal property, including loss occasioned by  
16 the death or injury of livestock or the unborn issue of livestock,  
17 caused by an act of a bear may complain to any natural resources  
18 police officer of the division of Natural Resources for protection

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1 against the bear.

2 (B) Upon receipt of the complaint, the officer shall  
3 immediately investigate the circumstances of the complaint. If the  
4 officer is unable to personally investigate the complaint, he or she  
5 shall designate a wildlife biologist to investigate on his or her  
6 behalf.

7 (C) If the complaint is found to be justified, the officer or  
8 designated person may, together with the owner and other residents,  
9 proceed to hunt, destroy or capture the bear that caused the property  
10 damage: *Provided*, That only the natural resources police officer or  
11 the wildlife biologist may determine whether to destroy or capture  
12 the bear and whether to use dogs to capture or destroy the bear:  
13 *Provided, however*, That, if out-of-state dogs are used in the hunt,  
14 the owners of the dogs are the only nonresidents permitted to  
15 participate in hunting the bear.

16 (2) (A) When a property owner has suffered damage to real  
17 or personal property as the result of an act by a bear, the owner  
18 shall file a report with the director of the division of Natural

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1 ~~Resources~~. The report shall state whether or not the bear was  
2 hunted and destroyed and, if so, the sex, weight and estimated age  
3 of the bear. The report shall also include an appraisal of the  
4 property damage occasioned by the bear duly signed by three  
5 competent appraisers fixing the value of the property lost.

6 (B) The report shall be ruled upon and the alleged damages  
7 examined by a commission comprised of the complaining property  
8 owner, an officer of the division and a person to be jointly selected  
9 by the officer and the complaining property owner.

10 (C) The division shall establish the procedures to be  
11 followed in presenting and deciding claims under this section in  
12 accordance with article three, chapter twenty-nine-a of this code.

13 (D) All claims shall be paid in the first instance from the  
14 Bear Damage Fund provided in section forty-four-b of this article.  
15 In the event the fund is insufficient to pay all claims determined by  
16 the commission to be just and proper, the remainder due to owners  
17 of lost or destroyed property shall be paid from the special revenue  
18 account of the division of ~~Natural Resources~~.

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1           (3) In all cases where the act of the bear complained of by  
2 the property owner is the killing of livestock, the value to be  
3 established is the fair market value of the livestock at the date of  
4 death. In cases where the livestock killed is pregnant, the total  
5 value is the sum of the values of the mother and the unborn issue,  
6 with the value of the unborn issue to be determined on the basis of  
7 the fair market value of the issue had it been born.

8           (e) *Criminal penalties.* – (1) Any person who commits a  
9 violation of the provisions of this section is guilty of a misdemeanor  
10 and, upon conviction thereof, shall be fined not less than \$1,000 nor  
11 more than \$5,000, which ~~fine~~ is not subject to suspension by the  
12 court, confined in jail not less than thirty nor more than one  
13 hundred days, or both fined and confined. Further, the person's  
14 hunting and fishing licenses shall be suspended for two years.

15           (2) Any person who commits a second violation of the  
16 provisions of this section is guilty of a misdemeanor and, upon  
17 conviction thereof, shall be fined not less than \$2,000 nor more than  
18 \$7,500, which ~~fine~~ is not subject to suspension by the court,



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1 confined in jail not less than thirty days nor more than one year, or  
2 both fined and confined. The person's hunting and fishing licenses  
3 shall be suspended for life.

4 (3) Any person who commits a third or subsequent violation  
5 of the provisions of this section is guilty of a felony and, upon  
6 conviction thereof, shall be fined not less than \$5,000 nor more than  
7 \$10,000, which ~~fine~~ is not subject to suspension by the court,  
8 imprisoned in a correctional facility not less than one year nor more  
9 than five years, or both fined and imprisoned.

10 **§20-2-42w. Class Y special crossbow hunting permit for**  
11 **certain disable persons.**

12 (a) ~~On or after January 1, 2006, a~~ A Class Y permit ~~shall be~~  
13 ~~is~~ a special statewide hunting permit ~~and shall entitle the permittee~~  
14 ~~entitling a person to hunt all wildlife during established archery and~~  
15 ~~firearm seasons. An application shall be furnished by the director,~~  
16 ~~and a Class Y permit allowing the holder to use a crossbow, during~~  
17 ~~the archery hunting seasons, to applicants who meet~~ if the person  
18 meets the following requirements:

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1 (1) He or she holds a Class Q permit;

2 (2) He or she has a permanent and substantial loss of  
3 function in one or both hands while failing to meet the minimum  
4 standards of the upper extremity pinch, grip and nine-hole peg tests  
5 administered under the direction of a licensed physician; or

6 (3) ~~★~~ He or she has a permanent and substantial loss of  
7 function in one or both shoulders while failing to meet the  
8 minimum standards of the ~~standard~~ shoulder strength test  
9 administered under the direction of a licensed physician.

10 (b) The application form shall include a written statement  
11 or report prepared by a the physician, prepared conducting the test  
12 no more than six months preceding the application and verifying  
13 that the applicant is physically disabled as described in this section.

14 As part of the application, the applicant shall authorize, by written  
15 release, an examination of all medical records regarding his or her  
16 qualifying disability. When completed, the permit form constitutes  
17 a Class Y permit. The Class Y permit and a completed license  
18 application shall be submitted to the Division, which will issue a

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1 wallet-sized card to the permittee. The card and all other  
2 documents and identification required to be carried by this article  
3 shall be in the permittee's possession when hunting.

4 (c) A Class Y permit must be accompanied by a valid  
5 statewide hunting license or the applicant must be exempt from  
6 hunting licenses as provided in this chapter.